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Kevin DeNuccio, Sarita James, Jay Leupp,
Merrick D. Okamoto, Said Ouissal, Simeon
Salzman, and Fred Thiel, and Nominal Defendant
Marathon Digital Holdings, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

KIMBERLY BERNARD, Derivatively on Behalf of
MARATHON DIGITAL HOLDINGS, INC. (f/k/a
MARATHON PATENT GROUP, INC.),

Plaintiff,

v.

FRED THIEL, GEORGES ANTOUN, KEVIN
DENUCCIO, SARITA JAMES, JAY LEUPP,
SAID OUISSAL, MERRICK D. OKAMOTO, and
SIMEON SALZMAN,

Defendants,

-and-

MARATHON DIGITAL HOLDINGS, INC. (f/k/a
MARATHON PATENT GROUP, INC.),

Nominal Defendant.

Case No.: 2:22-cv-00305-RFB-VCF

**DECLARATION OF STEPHEN A.
RADIN OPPOSING MOTION TO
INDEFINITELY STAY
DEADLINES TO RESPOND TO
MOTIONS TO DISMISS**

ROY STRASSMAN, Derivatively on Behalf of
MARATHON DIGITAL HOLDINGS, INC. (f/k/a
MARATHON PATENT GROUP, INC.),

Plaintiff,

v.

FRED THIEL, GEORGES ANTOUN, KEVIN
DENUCCIO, SARITA JAMES, JAY LEUPP,
SAID OUISSAL, MERRICK D. OKAMOTO, and
SIMEON SALZMAN,

Defendants,

-and-

MARATHON DIGITAL HOLDINGS, INC. (f/k/a
MARATHON PATENT GROUP, INC.),

Nominal Defendant.

Case No.: 2:22-cv-00724-ART-EJY

I, Stephen A. Radin, declare the following:

1. I am a member of the law firm Weil, Gotshal & Manges, counsel for Defendants Georges Antoun, Kevin DeNuccio, Sarita James, Jay Leupp, Merrick D. Okamoto, Said Ouissal, Simeon Salzman, and Fred Thiel and Nominal Defendant Marathon Digital Holdings, Inc. in the above-captioned *Bernard* action and the above-captioned *Strassman* action. I have been admitted to practice before this Court *pro hac vice* in both actions.

2. I submit this declaration in opposition to the motions by plaintiffs in the above-captioned actions seeking, among other things, to stay briefing of motions to dismiss for an indefinite period of time. *Bernard* ECF Nos. 34, 35, and 36, *Strassman* ECF Nos. 19, 20. Neither Defendants nor Marathon oppose plaintiffs' other requested relief.

3. On May 17, 2022, I sent an email to Mark C. Rifkin of the firm Wolf Haldenstein Adler Freeman & Herz LLP, plaintiffs' counsel in the *Strassman* action, proposing briefing the motion to dismiss the *Strassman* action on the same schedule that the Court ordered on April 18, 2022 in the *Bernard* action. I wrote that, if that did not work for Mr. Rifkin, I would be "[h]appy to accommodate any reasonable request." A true and correct copy of this email is attached as Exhibit A.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 27th day of May 2022, I caused to be served via the Court's CM/ECF program true and correct copies of the above and foregoing **DECLARATION OF STEPHEN A. RADIN OPPOSING MOTION TO INDEFINITELY STAY DEADLINES TO RESPOND TO MOTIONS TO DISMISS** to all parties via electronic service.

/s/ Cinda Towne

An employee of PISANELLI BICE PLLC

EXHIBIT A

May 17, 2022 Email from
Stephen Radin to Mark Rifkin

Radin, Stephen

From: Radin, Stephen
Sent: Tuesday, May 17, 2022 10:21 AM
To: 'rifkin@whafh.com'
Subject: Marathon Derivative Action

Mark:

I think we had a matter together years ago – maybe Westinghouse or CBS?

I'm writing about Marathon. As you know, we've moved to dismiss your action (Strassman, Case No. 00724) on the same grounds Marathon moved on April 4 to dismiss the previously filed action (Bernard, Case No. 00305). The default schedule in Nevada is two weeks for your answer to the motion, May 24, and the opposition to the motion in Bernard, filed on April 4, is due on May 31. I assume you are working with the plaintiff in Bernard, since the complaints in the two cases are identical. Would it work for you to oppose our motion on the same schedule, i.e., on May 31? Happy to accommodate any reasonable request.

Best,
Steve

The logo for the law firm Weil, Gotshal & Manges LLP. It consists of a dark green rectangular box with the word "Weil" written in white, bold, sans-serif capital letters.

Stephen A. Radin

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